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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/840,215

05/06/2004

Robert J. Slais

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EXAMINER

DUNWOODY, AARON M

ART UNIT

PAPER NUMBER

3679

MAIL DATE

DELIVERY MODE

02/01/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/840,215	Applicant(s) SLAIS ET AL.	
	Examiner Aaron M. Dunwoody	Art Unit 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 November 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-20 is/are allowed.
- 6) ☒ Claim(s) 21-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

The Certificate of Correction filed 5/6/2004 is for Patent No. 6,474,126 B1, and not the instant reissue application of Patent No. 6,386,593. Applicant should request that the incorrect Certificate of Correction be expunged from the record (see MPEP 724.05).

Further, it should be noted that there was a Certificate of Correction filed 12/30/2002, for Patent No. 6,386,593, which was denied 2/27/2003.

Claim Rejections - 35 USC § 251

Claims 21-26 are rejected under 35 U.S.C. 251 as being broadened in a reissue application filed outside the two year statutory period. Independent claim 21 lacks, among other things, a planar seal having a formed pilot with an aperture, and the planar seal being compressed to complete the fluid-tight conduit connection; and the receiver having a first and second primary seal. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would not have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

Declaration/Oath

The reissue oath/declaration filed with this application is defective because it fails to identify at least one error which is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414.

Further, an Inventor-filed reissue declaration is required because Applicant is broadening claims.

In accordance with 37 CFR 1.175(b)(1), a supplemental reissue oath/declaration under 37 CFR 1.175(b)(1) must be received before this reissue application can be allowed.

Claims 21-26 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251. See 37 CFR 1.175. The nature of the defect is set forth above.

Receipt of an appropriate supplemental oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251. An example of acceptable language to be used in the supplemental oath/declaration is as follows:

"Every error in the patent which was corrected in the present reissue application, and is not covered by a prior oath/declaration submitted in this application, arose without any deceptive intention on the part of the applicant."

See MPEP § 1414.01.

Response to Arguments

Applicant's arguments filed 11/23/2009 have been fully considered but they are not persuasive.

Applicant argues that the incorrect certificate of correction be expunged from the record. The Examiner disagrees. Simply requesting to have a document expunged from the record does not expunge that document. MPEP 724.05 recites:

724.05 [R-6] Petition To Expunge Information or Copy of Papers in Application File

I. INFORMATION SUBMITTED UNDER MPEP § 724.02

A petition under 37 CFR 1.59(b) to expunge information submitted under MPEP § 724.02, or that should have been submitted under MPEP § 724.02 (as where proprietary information is submitted in an information disclosure statement but inadvertently not submitted in a sealed envelope as discussed in MPEP § 724.02) will be entertained only if the petition fee (37 CFR 1.17(g)) is filed and the information has been found *not* to be ~~material to~~ patentability. If the information is found to be ~~material to~~ patentability, any petition to expunge the information will be denied. Any such petition to expunge information submitted under MPEP § 724.02 should be submitted at the time of filing the information under MPEP § 724.02 and directed to the Technology Center (TC) to which the application is assigned. Such petition must contain:

Applicant argues:

In the above Office Action, the Examiner rejected the claims under 35 USC § 251 for the reason that the claims were being broadened in a reissue application filed outside the two year statutory period. Further, the Examiner stated that independent Claim 21 lacks, among other things, a planar seal having a formed pilot with an aperture, and the planar seal being compressed to complete the fluid-tight conduit connection; and the receiver having a first and second primary seal. A claim is broader in scope than the original claims if it contains within its scope any conceivable product or process which would not have infringed the original patent. A claim is broadened if it is broader in any one respect even though it may be narrower in other respects.

The Examiner disagrees. Applicant's attention is directed to application number 09/430,507, amendment filed 6/19/2000, paper number #3, and pages 8-11. Here, Applicant argues how critical a planar seal having a formed pilot with an aperture, and the planar seal being compressed to complete the fluid-tight conduit connection; and a receiver having a first and second primary seal. Accordingly, new claim 21, although it may be narrower in other aspects, is broader in scope than the patent claims.

Applicant argues:

As soon as the supplemental oath/declaration signed by the original inventors setting forth the appropriate language as suggested by the Examiner is received, the undersigned will forward it to the Examiner so as to comply with the requirements of 35 USC § 251.

Accordingly, in view of this supplemental declaration and compliance with the requirements under 35 USC § 251, the undersigned believes that the complete reissue application is now in condition for allowance and accordingly, formal allowance of this reissue application is respectfully requested.

The Examiner disagrees. A supplemental oath/declaration signed by the original inventors setting forth the appropriate language, as suggested by the Examiner, should be submitted with Applicant's next communication so as to comply with the requirements of 35 USC § 251.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aaron M. Dunwoody whose telephone number is 571-272-7080. The examiner can normally be reached on 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 571-272-7087. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Aaron M Dunwoody/
Primary Examiner, Art Unit 3679

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